

JUL 31 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

AGUSTIN MUNOZ LABASTIDA; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-72813

Agency Nos. A75-519-901
A75-519-902

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Husband and wife Agustin Munoz Labastida and Norma Alicia Solis-Davila, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“IJ”) decision denying their applications for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo claims of due process violations in immigration proceedings. *See Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). We deny the petition for review.

Petitioners’ contention that the IJ did not act as neutral factfinder is unavailing because they did not establish either a violation of due process or the prejudice necessary to obtain relief. *See Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (due process violation requires showing that “the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case”) (citation and quotation marks omitted); *Antonio-Cruz v. INS*, 147 F.3d 1129, 1131 (9th Cir. 1998).

PETITION FOR REVIEW DENIED.